



House of Representatives

File No. 897

General Assembly

January Session, 2011

(Reprint of File No. 390)

Substitute House Bill No. 6357
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
June 3, 2011

**AN ACT CONCERNING ADMINISTRATIVE HEARINGS UNDER THE
MEDICAID ELECTRONIC HEALTH RECORD INCENTIVE PROGRAM
AND RETURN RECEIPTS FOR AGENCY NOTICES.**

Be it enacted by the Senate and House of Representatives in General
Assembly convened:

1 Section 1. Section 17b-34 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The Commissioner of Social Services, in consultation with the
4 Commissioner of Public Health, shall take such action as necessary to
5 meet the qualification criteria established pursuant to Section 4201 of
6 the American Recovery and Reinvestment Act of 2009, P.L. 111-5 to
7 obtain (1) matching funds for the Department of Social Services'
8 administrative planning activities related to health information
9 technology; and (2) incentive payments for hospitals and eligible
10 professionals who are meaningful electronic health record users as
11 described in said act. The Commissioner of Social Services shall
12 disburse any federal incentive funds for hospitals and eligible
13 professionals that the commissioner receives pursuant to this section to
14 each hospital and eligible professional.

15 (b) The Commissioner of Social Services shall, in accordance with
16 Section 4201 of the American Recovery and Reinvestment Act of 2009,
17 P.L. 111-5, develop and implement a Medicaid health information
18 technology plan and shall establish a Medicaid electronic health record
19 incentive program to provide incentives for hospitals and other health
20 care providers which adopt and meaningfully use electronic health
21 records to improve patient health and the quality and efficiency of
22 health care service delivery.

23 (c) A hospital or other health care provider that receives an adverse
24 decision by the Commissioner of Social Services under the Medicaid
25 electronic health record incentive program concerning the hospital's or
26 provider's: (1) Eligibility for incentive payments; (2) incentive payment
27 amounts; (3) demonstration of adopting, implementing or upgrading
28 an electronic health record; or (4) fulfillment of meaningful use criteria
29 may request review of the commissioner's decision, in accordance with
30 42 CFR 495.370. Upon receipt of such request, the commissioner shall
31 conduct an initial review and notify the provider of the determination
32 based on such review. The provider may request an administrative
33 hearing, in accordance with chapter 54, to contest the department's
34 determination.

35 (d) For purposes of this section, "hospital" shall have the same
36 meaning as provided in section 19a-490 and "other health care
37 provider" means any person, corporation, limited liability company,
38 organization, partnership, firm, association, facility or institution that
39 is licensed or certified by the state to provide health care services and
40 contracts with the Department of Social Services to provide such
41 services to recipients of benefits under the Medicaid program.

42 Sec. 2. Subsection (a) of section 1-2b of the general statutes is
43 repealed and the following is substituted in lieu thereof (*Effective from*
44 *passage*):

45 (a) For purposes of sections 1-100oo, 1-206, 2-71r, 4-176, 4-180, 4-183,
46 4a-52a, 4a-60q, 4a-63, 4a-100, 4e-34, 4e-35, 7-65, 7-148w, 7-247a, 7-473c,

47 7-478e, 8-3b, 8-3i, 8-7d, 8-26b, 8-169r, 8-293, 9-388, 9-608, 9-623, 10a-22c,
 48 10a-22i, 10a-34a, 10a-109n, 12-35, 12-157, 12-242ii, 12-242jj, 13a-80, 13a-
 49 85c, 13a-123, 15-11a, 16-41, 16-50c, 16-50d, 17a-103b, 19a-87, 19a-87c,
 50 19a-209c, 19a-332e, 19a-343a, 19a-486a, 19a-486c, 19a-486d, 19a-497,
 51 19a-507b, 20-205a, 20-325a, 21-63, 21-80, 22-7, 22a-6b, 22a-6u, 22a-30,
 52 22a-42d, 22a-42f, 22a-66d, 22a-137, 22a-178, 22a-225, 22a-228, 22a-250,
 53 22a-285b, 22a-354p, 22a-354s, 22a-354t, 22a-361, 22a-371, 22a-401, 22a-
 54 403, 22a-433, 22a-436, 22a-449f, 22a-449l, 22a-449n, 22a-504, 22a-626, 23-
 55 46, 23-65j, 23-65l, 23-65p, 25-32, 25-32e, 25-331, 25-34, 25-204, 25-234,
 56 29-108d, 31-57c, 31-57d, 31-355, 32-613, 33-663, 33-929, 33-1053, 33-1219,
 57 34-521, 35-42, 36a-50, 36a-51, 36a-52, 36a-53, 36a-82, 36a-184, 36a-493,
 58 36b-62, 36b-72, 38-323a, 38a-344, 38a-676, 38a-724, 38a-788, 42-158j, 42-
 59 161, 42-181, 42-182, 42-186, 42-271, 45a-716, 46a-82e, 46b-115w, 46b-128,
 60 47-42d, 47-74f, 47-88b, 47-236, 47-284, 47a-11b, 47a-11d, 47a-13a, 47a-
 61 14h, 47a-56b, 49-2, 49-4a, 49-8, 49-8a, 49-10b, 49-31b, 49-51, 49-70, 51-
 62 90e, 52-57, 52-59b, 52-63, 52-64, 52-195c, 52-350e, 52-351b, 52-361a, 52-
 63 362, 52-565a, 52-605, 52-606, 53-401, 53a-128, 53a-128d, 53a-207 and 54-
 64 82c and chapter 965, any reference to certified mail, return receipt
 65 requested, shall include mail, electronic, and digital methods of
 66 receiving the return receipt, including all methods of receiving the
 67 return receipt identified by the Mailing Standards of the United States
 68 Postal Service in Chapter 500 of the Domestic Mail Manual or any
 69 subsequent corresponding document of the United States Postal
 70 Service.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	17b-34
Sec. 2	<i>from passage</i>	1-2b(a)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: See Below

Municipal Impact: None

Explanation

The bill could result in minimal savings to state agencies that choose to receive a certified mail return receipt requested for certain documents through electronic and digital methods rather than through the mail. The cost of receiving the delivery return receipt through mail is \$2.85 per piece.

The bill also conforms to federal law regarding administrative hearings to contest an adverse decision under the Medicaid electronic health record incentive program. The Department of Social Services currently has a process and staff to administer such hearings; therefore, this has no fiscal impact.

House "A" adds the provision allowing state agencies to choose to receive a certified mail return receipt, which results in the fiscal impact described above. It also defines the terms "hospital" and "other health care provider," which has no fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the cost of a certified mail return receipt and the frequency with which agencies choose a certified mail return receipt through electronic and digital methods.

OLR Bill Analysis**sHB 6357 (as amended by House "A") ******AN ACT CONCERNING ADMINISTRATIVE HEARINGS UNDER THE
MEDICAID ELECTRONIC HEALTH RECORD INCENTIVE
PROGRAM.*****SUMMARY:**

Currently, the Uniform Administrative Procedure Act (UAPA) requires the Department of Social Services (DSS) to send declaratory rulings and final agency decisions by certified or registered mail, return receipt requested. Under the bill, other acceptable methods of confirming receipt are: mail, electronic, and digital methods and all methods identified by the U.S. Postal Service. This change applies to all types of administrative decisions, not just those issued under the bill.

This bill also requires the DSS commissioner, in accordance with a provision in the federal American Recovery and Reinvestment Act of 2009 (ARRA, P.L. 111-5 §4201), to develop and implement a Medicaid health information technology plan. She must also establish a Medicaid health record incentive program to provide incentives for qualifying hospitals and health care providers that adopt and meaningfully use electronic health records to improve patient health and the quality and efficiency of health care service delivery.

Under the bill, providers who are aggrieved by certain incentive program decisions are entitled to an initial review by the DSS commissioner. If still not satisfied, they may request a contested case hearing governed by the UAPA.

Current law requires DSS to send these declaratory rulings and final

agency decisions by certified or registered mail, return receipt requested. Under the bill, he may use any of the methods described above.

EFFECTIVE DATE: Upon passage

*House Amendment "A" adds definitions and permits DSS to notify parties of decisions by means other than registered or certified mail.

DEFINITIONS

Under the bill, a "hospital" is an establishment for the lodging, care, and treatment of persons suffering from disease or other abnormal physical or mental conditions. It includes inpatient psychiatric services in general hospitals.

"Other health care providers" are persons, corporations, limited liability companies, organizations, partnerships, firms, associations, facilities, or institutions that are state-licensed or certified to provide health care services that contract with DSS to provide such services to Medicaid recipients.

ARRA

ARRA § 4201 provides 100% federal matching funds to states for incentive payments to eligible Medicaid providers who adopt, implement, upgrade, and meaningfully use certified electronic health record technology. It provides a 90% federal match for related state administrative expenses. One eligibility requirement is that a state provide a contested case hearing to resolve disputes between providers and the state Medicaid agency (in this case, DSS).

ADMINISTRATIVE HEARINGS ON INCENTIVE PROGRAM GRIEVANCES

The issues that may be decided in contested case hearings are the provider's:

1. eligibility for incentive payments;

2. incentive payment amounts;
3. demonstration of adopting, implementing, or upgrading an electronic health record; and
4. fulfillment of meaningful use criteria.

BACKGROUND

Related Federal Law — Reasonable Use

The 2009 federal “Health Information Technology for Economic and Clinical Care Act,” will provide incentive payments under Medicaid and Medicare to eligible providers and hospitals for the “meaningful use” of certified electronic health record (EHR) technology. The payment program begins in 2011. These incentive programs are designed to support providers making the transition to health information technology and encourage the use of EHRs to help improve patient health care delivery and outcomes.

COMMITTEE ACTION

Human Services Committee

Joint Favorable Substitute

Yea 18 Nay 0 (03/22/2011)

Judiciary Committee

Joint Favorable

Yea 36 Nay 0 (04/26/2011)